



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R09-OAR-2013-0009; FRL-9832-2]

Approval of Air Quality Implementation Plans; Navajo Nation;

Regional Haze Requirements for Navajo Generating Station;

Extension of Public Comment Period

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of extended comment period.

**SUMMARY:** On February 5, 2013, EPA proposed a Best Available Retrofit Technology (BART) determination for oxides of nitrogen (NO<sub>x</sub>) for the Navajo Generating Station (NGS), located on the Navajo Nation, and provided a 3-month period for public comments, to close on May 6, 2013. The Navajo Nation, Gila River Indian Community, and other affected stakeholders requested a 90-day extension of the comment period to allow time for stakeholders to develop an alternative to EPA's proposed BART determination that achieves greater reasonable progress. On March 19, 2013, EPA extended the close of the public comment period to August 5, 2013. On June 10, 2013, EPA signed a notice, published in the Federal Register on June 19, 2013, of our intent to hold five public hearings in the state of Arizona. On June 20, 2013, Salt River Project (SRP), the operator and co-owner of NGS, submitted a letter on behalf of six stakeholders,

including the Navajo Nation and Gila River Indian Community, describing the development of a stakeholder alternative, and requesting another extension of the comment period to allow the stakeholders additional time to finalize their alternative and submit it to EPA for consideration in the rulemaking process. EPA is extending the comment period for this proposed rulemaking by 60 days to October 4, 2013.

**DATES:** The comment period for the proposed rule published February 5, 2013, at 78 FR 8274, extended March 19, 2013, at 78 FR 16825, is further extended. Comments on the proposed BART determination for NGS must be postmarked no later than October 4, 2013.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2013-0009, by one of the following methods:

(1) Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.

(2) E-mail: [r9ngsbart@epa.gov](mailto:r9ngsbart@epa.gov).

(3) Mail or deliver: Anita Lee (Air-2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

For more detailed instructions concerning how to submit comments on this proposed rule, and for more information on our proposed rule, please see the notice of proposed rulemaking,

published in the Federal Register on February 5, 2013 (78 FR 8274) .

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Hearings:* EPA intends to schedule five public hearings to accept oral and written comments on the proposed rulemaking. EPA intends to hold the public hearings at locations on the Navajo Nation and the Hopi Tribe, as well as in Page, Phoenix, and Tucson, Arizona. EPA will provide notice and additional details

related to the hearings in the Federal Register, on our website, and in the docket for this proposed rulemaking.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed in the index, some information may be publicly available only at EPA Region 9 (e.g., maps, voluminous reports, copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Anita Lee, EPA Region 9, (415) 972-3958, [r9ngsbart@epa.gov](mailto:r9ngsbart@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we", "us", and "our" refer to EPA.

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### **I. Background**

NGS is a coal-fired power plant located on the Navajo Nation Indian Reservation, just east of Page, Arizona, approximately 135 miles north of Flagstaff, Arizona. Emissions of NO<sub>x</sub> from NGS affect visibility at 11 National Parks and

Wilderness Areas that are designated as Class I federal areas, mandated by Congress to receive heightened protection. NGS is subject to the BART requirement of the CAA and the Regional Haze Rule based on its age and its effects on visibility in Class I areas.

On February 5, 2013, EPA proposed a BART determination to require NGS to achieve a nearly 80 percent reduction of its current overall NO<sub>x</sub> emission rate. EPA also proposed an alternative to BART that would provide flexibility to NGS in the schedule for the installation of new post-combustion control equipment. EPA's proposed alternative to BART credits NGS for its early and voluntary installation of new combustion controls to reduce NO<sub>x</sub> emissions beginning in 2009. EPA, therefore, proposed to find that this alternative achieves greater reasonable progress than BART.

In recognition that there may be other approaches that could result in equivalent or better visibility benefits than BART, as well as the singular importance of NGS to the Navajo Nation, Hopi Tribe, the Gila River Indian Community, and numerous other tribes located in Arizona, EPA also outlined a framework for evaluating other alternatives to provide greater flexibility than EPA's proposed alternative to BART.

EPA encouraged a robust public discussion of our proposed BART determination and alternative, as well as other possible

alternatives, and recognized the potential need for a supplemental proposal if other approaches developed by other parties are identified as meeting the needs of stakeholders and meeting the requirements of the CAA.

EPA received requests for a 90-day extension of the public comment period from the Navajo Nation, the Gila River Indian Community, and other stakeholders, in order to allow stakeholders time to develop alternatives to BART for EPA's consideration. On March 19, 2013, EPA extended the close of the public comment period to August 5, 2013 (78 FR 16825). EPA recognized that the stakeholder process, to develop viable alternatives to BART that provide additional flexibility to the owners of NGS while achieving more emission reductions to assure greater reasonable progress than BART, would require a significant amount of time. EPA also recognized the critical importance of active participation by affected tribes located in Arizona in the development of alternatives to BART.

On June 10, 2013, EPA signed a notice, published on June 19, 2013, of our intent to hold five public hearings throughout the state of Arizona (78 FR 36716). EPA intends to hold hearings at one location each on reservation lands of the Navajo Nation and Hopi Tribe, and in Page, Phoenix, and Tucson, Arizona.

On June 20, 2013, SRP submitted a letter, on behalf of six stakeholders, requesting another extension of the comment period

for NGS.<sup>1</sup> SRP describes working over the past several months with representatives from the Central Arizona Water Conservation District, the Environmental Defense Fund, the Gila River Indian Community, the Navajo Nation Environmental Protection Agency, and the U.S. Department of the Interior to develop a BART alternative. SRP states that although significant progress has been made on the development of an alternative, additional time is needed to finalize their alternative and submit it to EPA for consideration in the rulemaking process.

## **II. Today's Action**

In today's action, EPA is extending the comment period for our proposed BART determination for NGS by 60 days, to October 4, 2013. EPA is granting a 60-day extension to allow time for the stakeholders to finalize their alternative and submit it to EPA for consideration in the rulemaking process.

List of Subjects in 40 CFR Part 49

Environmental protection, Air pollution control, Indians, Intergovernmental relations, Nitrogen Dioxide.

Authority: 42 U.S.C. 7401 *et seq.*

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<sup>1</sup> See letter dated June 20, 2013 from Kelly J. Barr, SRP, to Jared Blumenfeld, EPA, re: Request for Extension of the Public Comment Period, Proposed Rule - Regional Haze Requirements for Navajo Generating Station Docket No. EPA-R09-OAR-2013-0009.

Dated: June 26, 2013

Deborah Jordan,

Air Division Director, Region 9.

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